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January 6, 2017

Submitted via Electronic Delivery to:

Mr. Barry F. Mardock, Deputy Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090
Reg-comm@fca.gov

Re: RIN 3052-AD11 Loans in Areas Having Special Flood Hazards- Private Flood Insurance

Dear Mr. Mardock:

Northwest Farm Credit Services is part of the Farm Credit System serving customers living in rural areas and communities such as farmers, ranchers and rural home owners in Alaska, Washington, Oregon, Idaho and Montana. We appreciate the opportunity to provide comment to the joint notice of proposed rulemaking regarding loans in areas having special flood hazards – private flood insurance.

Private Flood Insurance Defined

In addition to other conditions, the proposed definition of “private flood insurance” requires the coverage to be “at least as broad as” the coverage provided under a standard flood insurance policy (SFIP) under the National Flood Insurance Program in effect as of the date the private policy is provided to a regulated lending institution. This requires the lender to compare the terms and coverage of a privately issued flood insurance policy against that of a SFIP. The proposal places the burden of determination on the lending institution and requires the lender to become an expert in underwriting flood insurance policies or seek assistance from third parties.

Insurance companies already possess the knowledge and expertise required to review their own policies for sufficiency of coverage. If a private insurance company wants to enter this market and compete with the SFIP policy, they must ensure the borrower and lender that their policy meets the minimum standards required by NFIP, FEMA and regulators.

Mandatory Acceptance

The proposal provides the lender with a safe harbor through its compliance aid for mandatory acceptance requirements. The compliance aid is to assist the lender in determining whether the policy meets the definition of private flood insurance. As stated above, the burden of proving whether a private policy meets the definition should fall solely on the insurer who prepares the policy.

Insurance companies are better equipped to determine whether their insurance policy meets state and federal insurance regulations. The insurer should also provide indemnification to the lender if the policy is later determined to be insufficient. It should not be the responsibility of the lender to advise an insurer of the adequacy of their insurance policy.



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Discretionary Acceptance

The proposal includes discretionary acceptance language that allows for lending institutions to accept other private flood insurance policies, even if the policy does not meet the requirements under the proposed statutory definition. Although this flexibility is appreciated, without further qualifying criteria the additional burden of determination on the lender and increased risk of liability will deter lenders from accepting such policies.

If adequately defined, the discretionary acceptance criteria could potentially provide Farm Credit lenders some increased opportunities for flood insurance coverage on nonresidential properties, which comprise a substantial percentage of our loan portfolios. We encourage the agencies to include a reasonable, understandable compliance aid and to further define "sufficient protection of the loan."

Conclusion

We respectfully request that the agencies reconsider placing the burden of proving whether a private flood insurance policy is compliant on the lender. Lending institutions are without the expertise found in the insurance industry to make such a determination in a reasonable and efficient manner. In addition, lenders are not trained or licensed insurance agents and should not be required to advise applicants on the provisions of an insurance policy. Insurance companies with the aid of the State insurance regulators are better positioned to make the determinations necessary to implement the use of private flood insurance.

Thank you for the opportunity to comment on the proposal.

Sincerely,

A handwritten signature in black ink that reads "Kristen Anders". The signature is fluid and cursive, with the first and last names being clearly legible.

Kristen Anders
Assistant General Counsel